

U. S. DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20590

STATEMENT OF J. D. BRAMAN, ASSISTANT SECRETARY FOR ENVIRONMENT AND URBAN SYSTEMS, BEFORE THE SENATE PUBLIC WORKS COMMITTEE, RESPECTING IMPLEMENTATION OF THE ENVIRONMENTAL POLICY ACT, TUESDAY, AUGUST 25, 1970.

Thank you very much Mr. Chairman. I am pleased to be here to represent the Secretary in explaining how the Department of Transportation is incorporating the requirements of the Environmental Protection Act into its decision-making process. With me today is Frank Turner, the Federal Highway Administrator, who will discuss specific applications of the Act to the highway program.

I have just returned from my home state of Washington and from Alaska. These are areas of outstanding natural beauty, and I have returned renewed, not only in spirit, but also in my determination to fight for the preservation of our environment.

We at the Department of Transportation are continually mindful of our responsibility for environmental preservation -- a responsibility which is owed to the Congress and to the people it represents. In our view, and in our decisions, environmental quality is a goal, not a constraint.

The National Environmental Policy Act of 1969 is an unmistakable indication of Congress's commitment to environmental quality. Because you may not be completely familiar with this legislation, I would very briefly like to describe its provisions. In essence, the Act does two things. First, it superimposes upon existing Federal standards a new and far-reaching set of environmental criteria designed to assure the conservation of our irreplaceable natural and scenic resources. Second,

it creates a new operational requirement -- the preparation of an "environmental impact statement" -- in connection with every major Federal project which has a significant impact upon the environment.

On the first point, the Department of Transportation is moving to implement the new environmental standards in a positive way. We do not regard them, however, as a major departure from our past authority. In the Department of Transportation Act of 1966 are two provisions -- sections 2(b)(2) and 4(f) -- which have required from the outset that Departmental decisions be consistent with sound environmental policy.

The mandate in the new Environmental Policy Act is broader, of course, but we feel that our experience under the Department of Transportation Act has given us a meaningful head start in taking environmental factors into account.

On the second point, section 102(2)(C) of the Act requires that each Federal agency issue detailed statements with respect to "legislation and other major Federal actions significantly affecting the quality of the human environment." This is an important requirement, not only because it assures consideration of environmental factors in the planning of Federal projects, but because the detailed statements will be fairly reliable indicators of the degree to which Federal agencies are complying with the law. Furthermore, the statements, which are to be circulated among all interested Federal, State, and local agencies, will provide to appropriate officials an early warning of potentially adverse environmental consequences.

Forthcoming Department-wide guidelines and those of each of our Administrations will prescribe a procedure for developing these detailed environmental statements and for insuring that they have the intended effect upon the planning of projects subject to the Department's approval. To date, we have been dealing with this requirement on an ad hoc basis, even though most of the projects presently being considered were well underway prior to the enactment of the Environmental Policy Act.

The Federal-aid highway program has received the most attention in this regard. The Federal Highway Administration looks first at the need for a particular highway; then at its location; then at its design, then at specific engineering specifications. Each of these steps terminates in a specific approval, and each approval leads to the commitment of substantial sums of money. Mr. Turner will shortly describe this process in greater detail. My purpose is merely to indicate briefly the complexity of the program, and the reasons for our approach to it pursuant to the new Act.

According to the Interim Guidelines of the Council on Environmental Quality, section 102(2)(C) is applicable to major Federal actions having a significant effect on the environment "even though they arise from projects or programs initiated prior to enactment" of the Environmental Policy Act. "Where it is not practicable to reassess the basic course of action," the Guidelines say, "it is still important that further incremental major actions be shaped so as to minimize adverse environmental consequences." Thus, in the highway program, we have attempted to treat appropriate projects as covered by the Act even

where they were far along on January 1 of this year, when the law became effective. In many of these cases, of course, the statements reaffirm our earlier conclusions, and serve more as information about established projects than as an indication of alternatives still available. Nevertheless, we are not troubled by this. First, our past thinking, thanks to the environmental provisions in the Department of Transportation Act, was basically consistent with the criteria set forth in the Environmental Policy Act. Second, because we regard the "informational" function of the statements as important, we think that even statements produced after the fact are extremely useful.

Let me briefly outline the specific responses that the Department has made to the Act. At the end of January, Secretary Volpe held an executive retreat in Williamsburg, Virginia for the Office of the Secretary and the various Administrators. At that retreat, I briefed those assembled about the Act, and its application was discussed over much of that three day period.

On February 27 of this year, Secretary Volpe circulated a memorandum on the Act to all Assistant Secretaries and Administrators. In that memo, he emphasized the importance that he placed on the Act, highlighted several sections that he considered most relevant to the Department, and assigned the responsibility of overseeing the response of the Department to my office, in cooperation with the General Counsel. The Administrators were directed to become thoroughly familiar with the Act, and were asked to supply the Secretary with a statement of tentative plans for meeting its mandate.

In March, the Administrations sent to the Office of the Secretary a statement of their tentative plans for meeting the requirements of the Act. On April 24, a memorandum was sent from my office to the Administrations requesting proposed procedures for implementing section 102(2)(C).

During May, interim guidelines for implementing section 102(2)(C) were received from the Council on Environmental Quality and comments were received from the Administrations regarding their internal procedures for implementing that section.

In June, a draft DOT order setting forth general Departmental criteria for implementing section 102(2)(C) was sent to the Council and meetings were held within the Department on the draft order.

During July, the Administrations were advised that the Council wanted by September 1, 1970 a review of the policies and procedures, regulations, and legislation of the Department for consistency with the mandate of the Act. A second draft of the Departmental order on section 102(2)(C) was also prepared and circulated.

At the present time, a final draft of the Departmental order on section 102(2)(C) is being prepared. Each Administration will issue its own order or guidelines after the final order is issued. Each Administration has also been reviewing its policies, regulations, and laws and my office has received initial responses from them.

This Department can be proud of its long-standing sensitivity to environmental problems. However, the Environmental Policy Act does set forth a number of specific new requirements.

To give you a clearer insight into our procedures, Frank Turner will now outline how the Federal Highway Administration is meshing the Act into its day to day operations.

At the conclusion of his testimony, we would both be pleased to answer any questions the Committee members might have.